

RECEIVED  
CENTRAL FAX CENTER

SEP 26 2005

## CERTIFICATE OF FACSIMILE/MAILING PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office at (571) 273-8300 and that a confirmation copy is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

Date: September 26, 2005By: 

Beverly Fletcher

IN THE UNITED STATES PATENT AND TRADEMARK OFFICEPATENT

Inventor(s): David S. Bonalle, et al. Docket No.: 70655.3200  
Serial No.: 10/710,335 Confirmation No.: 4334 Group Art Unit: 2876  
Filing Date: July 1, 2004 Examiner: Walsh, Daniel I.  
Title: BIOMETRIC SAFEGUARD METHOD FOR USE WITH A SMARTCARD

**TERMINAL DISCLAIMER TO OBVIATE  
A PROVISIONAL DOUBLE PATENTING REJECTION  
OVER CO-PENDING APPLICATION**

Mail Stop Amendments  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

The owner, American Express Travel Related Services Company, Inc., of 100% interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on the pending reference Application Number, 10/708,841, which was filed on March 26, 2004; as such term is defined in 35 U.S.C. §§ 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on

1729190

1

Serial No. 10/710,335

Attorney Docket No. 70655.3200

the reference application is commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is an attorney of record, Reg. No. 56,677.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: September 26, 2005

By: 

Emma Harty  
Reg. No. 56,677

**SNELL & WILMER L.L.P.**  
400 East Van Buren  
One Arizona Center  
Phoenix, Arizona 85004-2202  
Telephone: (602) 382-6347  
Facsimile: (602) 382-6070  
E-mail: [charty@swlaw.com](mailto:charty@swlaw.com)

1729190

2

Serial No. 10/710,335  
Attorney Docket No. 70655.3200